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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,973	07/03/2003	Gerard F. Goepfert	13316-0016	6748
28529	7590	08/23/2005	EXAMINER	
GALLAGHER & KENNEDY, P. A. 2575 E. CAMELBACK RD. #1100 PHOENIX, AZ 85016			KAUFMAN, JOSEPH A	
			ART UNIT	PAPER NUMBER

3754

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,973

Applicant(s)

GOEPFERT, GERARD F.

Examiner

Joseph A. Kaufman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) 26-28 and 60-68 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10,20,21,34,37,38 and 46-50 is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7,9,11-19,22,23,25,29-33,35,36,39-45 and 51-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. Claims 1-3, 6, 7, 11-19, 22, 23, 25, 29-33, 35-36, 39-41 and 51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The liquid not contacting any permanent part of the dispenser has no support in the specification or drawings as originally filed, and thus constitutes new matter. Further, it is unclear how this is true. For example, liquid frequently drips and splashes and gets on the various "permanent structures".

2. Claims 6, 7, 9, 11-13, 16, 17, 19, 22, 42-45, 51-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6, 9, 11, 16 and their dependent claims depend from a canceled claim.

In claim 42, plural containers are now recited, yet in subsection c, the means is for only receiving "a container". This renders the claim confusing, as it is unclear how many containers there are.

Claim 51 as amended does not make sense. "Other than" what? Further, the grammar in the claim is incorrect.

Please check all of the claims for similar errors.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 6, 7, 9, 11-19, 22, 23, 25, 42-45, 51-59 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Devine in view of Nelson.

Devine shows a compartment 12, 20; container 22; receiving location seen in Figure 2; compressed gas applicator/bladder 32; dispensing location at 26; flow channel 30; control valve 26; gas line 64; source of gas 34; valve actuating means 82; safety switch 54, 56; temperature control means 42; fitment 74, 80; extending means seen in Figure 2 and prongs 74 (see Figure 5). Devine lacks the multiple structures, counter/cabinet structure and the refrigeration device. Nelson shows a portable beverage dispenser 10 having a counter 95 with a stem 92 having dispensing heads/valves 90, 90' above the counter; "disposable" (it can be thrown away) delivery tube 88, the fluid exiting/dispensed at the tip; cabinet/drawer 20; top wall seen in Figure 1; movement facilitating means 15; and refrigeration unit in 22 discussed in column 8, lines 6-13 having an air path seen in Figure 2. It would have been obvious to one of ordinary skill in the art to provide to the portable beverage dispenser with the refrigeration device as taught by Nelson with the dispensing device of Devine to easily

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transport a drink dispenser of multiple drinks utilizing a minimal number of people to move it to convenient locations (see column 1 of Nelson). Further, making the delivery tube flexible and controlling the tubes with pinch valves would have been obvious in order to allow for easy hook up and release of the tubes from the beverage devices while providing a simple and economical closure. Finally, it would have been obvious to one of ordinary skill in the art to provide multiple sets of dispensing devices in order to dispense different types of beverages. Note, the method clearly follows from the above discussion. As it is unclear how the liquid is not in contact with any permanent part of the dispenser, this limitation is not given weight.

5. Claims 29-33, 35 and 36 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson in view of Sardynski.

Nelson shows a movable unit 10 having a temperature controlled/refrigerated enclosure 22; store 20; delivery system/conduits 88; dispensing location/dispensing heads 90, 90'; and counter 95. Nelson lacks the air mover, the material dispensed, insulation around the dispensing head, and the pinch valve. Sardynski teaches an air mover discussed in column 3, lines 5-7. It would have been obvious to one of ordinary skill in the art to provide the air mover as taught by Sardynski on the device of Nelson in order to keep the cool air uniform throughout the chamber. Further, the type of liquid dispensed would have been obvious dependent on the tastes of the individuals being served. Insulating the dispensing head is an obvious way to prevent spoilage in the nozzle. Finally the use of a pinch valve would have been obvious in order to provide an easy and economical device for controlling the material out of the dispenser. As it is

unclear how the liquid is not in contact with any permanent part of the dispenser, this limitation is not given weight.

6. Claims 39-41 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson as modified by Sardynski as applied to claim 29 above, and further in view of Devine.

Nelson and Sardynski have been discussed above, but lack the pressure applicator for flexible dispensing bags. Devine teaches a collapsible bag 22 having a pressure applicator 32 for dispensing the material. It would have been obvious to one of ordinary skill in the art to provide the pressure applicator for collapsible bags with the device of Nelson and Sardynski in order to ensure a more complete dispensing of the material.

Allowable Subject Matter

7. Claims 10, 20, 21, 34, 37, 38, and 46-50 are allowed.

Response to Arguments

8. Applicant's arguments with respect to claims 1-3, 7-9, 11-19, 22, 23, 25, 29-33, 35, 36, 39-45 and 51-59 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

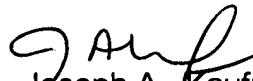
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (571) 272-4928. The examiner can normally be reached on Monday-Thursday, 5:30AM-2PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Joseph A. Kaufman
Primary Examiner
Art Unit 3754
8/18/05

jak
August 18, 2005